

RATH, YOUNG,
PIGNATELLI AND OYER, P.A.
TWO CAPITAL PLAZA
P. O. BOX 854

CONCORD, NEW HAMPSHIRE 03302-0854



SDMS DocID 559600

THOMAS D. RATH
SHERILYN BURNETT YOUNG
MICHAEL A. PIGNATELLI
EVE H. OYER
PAUL BARBADORO
ANN MCLANE KUSTER
DAVID M. HOWE
WILLIAM F. J. ARDINGER
M. CURTIS WHITTAKER
ANDREW W. SERELL
JAMES M. READEY
JANET V. LANIGAN
CHARLES G. WILLING, JR.
CHRISTINE P. BUTTON

TELEPHONE:
(603) 226-2600

TELECOPIER:
(603) 226-2700

RECEIVED

MAY 14 1991

May 10, 1991 EPA/ORC
CERCLA III Office

Cynthia E. Catri, Esquire
U.S. Environmental Protection Agency
Office of Regional Counsel
J.F. Kennedy Federal Building
Boston, MA 02203

Superfund Records Center
SITE: Coakley
BREAK: 11.9
OTHER: SS 9600

Re: **F.A. Gray, Inc.**
Coakley Landfill Site

Dear Ms. Catri:

I am writing on behalf of F.A. Gray, a small company recently named for the first time as a potentially responsible party ("PRP") for the Coakley Landfill Superfund Site. Based on the written information F.A. Gray has received from the USEPA and based on the telephone conversation I had with you, I must reiterate F.A. Gray's firm conviction that this company should not be included on the Coakley PRP list.

The USEPA has indicated that F.A. Gray's PRP status rests largely on a Coakley Landfill log entry and a weight slip that together describe a single truckload of rubbish that was taken to the landfill. However, neither of these two items indicate that this truck carried any hazardous waste. Indeed, F.A. Gray is certain that there were no paint or chemical wastes on this truck at all. As was described in F.A. Gray's December 14, 1987 response to the USEPA's first information request, "Respondent recycles and reuses all solvents, and combines all half-full paint cans to create gray deck paint for use as primer or for sale at reduced price to customers. Accordingly, Respondent has never found it necessary, nor authorized, the disposal of liquids at the Coakley Landfill nor any other dump or landfill." As for

Cynthia E. Catri, Esquire
May 10, 1991
Page 2

the particular truck for which you possess a weight slip, it contained the following items:

1. Steel shelving items;
2. Display cases; and
- 3 Metal work station stands.

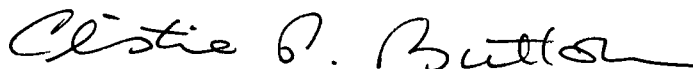
If your office has any additional or contrary information regarding the contents of this truck, I would appreciate your identifying and providing a copy of it to me as soon as possible.

Meanwhile, however, in the absence of any additional information F.A. Gray must take the position that it should not be included on the PRP list on the basis of this truckload.

In the event the EPA develops some scheme of allocating liability for the environmental damage at the Coakley Landfill, we request that you ensure that any allocation assigned to F.A. Gray not include the 5,560 pounds of rubbish associated with this truckload.

In light of the above and because F.A. Gray has not otherwise directed hazardous wastes to the Coakley Landfill, I would appreciate your assistance in removing F.A. Gray from the Coakley PRP list as soon as possible. Thank you for your kind and prompt attention to this matter.

Yours sincerely,



Christine P. Button

CPB:dkl